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December 10, 2004

FACSIMILE TRANSMISSION SHEET

TO: Examiner Leigh C. Maier
Group Art Unit 1623
c/o Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

CLIENT NO.: 28053
MATTER NO.: 37955
COUNTRY CODE: US
EXTENSION: 836

FAX NO.: 1-703-872-9306

FROM: Jeffrey S. Sharp

PAGES:
(INCLUDING THIS PAGE)

PLEASE CONFIRM RECEIPT: No

MESSAGE: Please see the following. **URGENT!** Thank you.

Re: U.S. Patent Application Serial No. 10/009,023

Please contact Julie Burke at (312) 474-6300 if you do not receive all of the pages in good condition.

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1201 → 8 X 200 = \$1600-
OK

01/03/2005 CTHOMAS2 00000001 132055 10009023

01 FC:1201 1600.00 DA

Application No.: 10/009,023

Docket No.: 28053/37955

(See Abstract, Lines 15-18).

Accordingly, the cited references fail to teach that replacing as little as 5% of an individual's daily carbohydrate with resistant starch in combination with replacing at least 10% of an individual's saturated fat intake with unsaturated fat would be successful in achieving the health benefits recited in the claims of the present invention. Accordingly, the rejections over Laughlin et al., either alone or in combination with Watanabe and Garg should be withdrawn and each of claims 1-10 and 26-33 should be allowed.

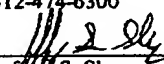
CONCLUSION

For all of the foregoing reasons, the final rejection should now be withdrawn and an notice of allowance of all pending claims is respectfully solicited. Should the Examiner wish to discuss any issues of form or substance in order to expedite allowance of the pending application, she is invited to contact the undersigned attorney at the number indicated below.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
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By:


Jeffrey S. Sharp
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Attorney for Applicants

December 10, 2004



PTO/SB/17 (10-03)

Approved for use through 7/31/2006. OMB 0651-0032
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**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$)** 420.00**Complete if Known**

Application Number	10/009,023-Conf. #6243
Filing Date	April 12, 2002
First Named Inventor	Ian L. Brown
Examiner Name	L. Maier
Art Unit	1623
Attorney Docket No.	28053/37955

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit
Account
Number

13-2855

Deposit
Account
NameMARSHALL, GERSTEIN &
BORUN LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
-20** =			
Independent Claims -3** =			
Multiple Dependent			

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	420.00
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(e))	
1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 420.00**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type) Jeffrey S. Sharp

Registration No. 31,879

Telephone (312) 474-6300

Signature

Date June 7, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: June 7, 2004

Signature: (Jeffrey S. Sharp)